

FILED
08 MAY -7 AM 9:09
RICHARD B. HILKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MD

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8 Attorneys for plaintiff

9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

CV 08

2348

14 STEVEN AMES BROWN,

15 Plaintiff,

16 v.

CIVIL NO.

COMPLAINT

VRW

17 ANDREW B. STROUD, an individual and
18 STROUD PRODUCTIONS AND
ENTERPRISES, INC.

19 Defendants.

20
21 Plaintiff alleges as follows:

22 1. Jurisdiction. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §
23 1332. This action also arises under the Federal Declaratory Judgment Act 28 U.S.C. §§
24 2201, 2202. Venue is proper pursuant to 28 U.S.C. § 1391(A)(2)&(3). Plaintiff is a citizen
25 of California and defendants are citizens of New York. The property in controversy
26 exceeds \$75,000.00 in value, exclusive of interest and costs.

1 2. Intradistrict Assignment. This action arose in San Francisco County.

2 3. At all times herein mentioned plaintiff was an attorney licensed to practice law in
3 California and was counsel to Eunice K. Stroud who was professionally known as Nina
4 Simone ("Dr. Simone"). Plaintiff represented Dr. Simone in two actions before this Court,
5 *Nina Simone v. San Juan Music Group, et al.* 94-CV-1288-TEH and *Nina Simone v.*
6 *Marshall Sehorn, et a.*, 95-Cv-3590-CAL (the "Prior Actions"). The Prior Actions resulted
7 in five separate final judgments and permanent injunctions against the various defendants
8 pertaining to the same approximately 104 sound recordings authored by Nina Simone
9 (collectively the "Masters"). Pursuant to the written conveyances executed by the various
10 defendants to Dr. Simone and the five final judgments and permanent injunctions in the
11 Prior Actions, Dr. Simone acquired all rights to the Masters that she did not already own.

12 4. By virtue of a written contract made on or about July 30, 1990 between Dr.
13 Simone and Plaintiff, Plaintiff obtained a 40% ownership interest in all the Master
14 Recordings that were the subject of the Prior Actions.

15 5. The various defendants in the Prior Actions claimed interests in 52 of the
16 Masters based on chains of title that purportedly began with Andrew B. Stroud and/or
17 Stroud Productions, Inc. (collectively "Stroud.")

18 6. No later than approximately 2000 Stroud had actual notice of the permanent
19 injunctions entered in the Prior Actions and their application to Stroud as persons acting in
20 concert and/or participation with said prior defendants.

21 7. Notwithstanding Stroud's actual notice of the final judgments and permanent
22 injunctions entered in the Prior Actions, Stroud contends that they are the exclusive
23 owners of one or more the Masters (collectively the "Disputed Masters") and that Plaintiff
24 owns no interest in the Disputed Masters.

25 8. The parties require a judicial declaration so they know their rights and
26 responsibilities in relation to the Disputed Masters and with respect to the final judgments

1 and permanent injunctions issued in the Prior Actions.

2 WHEREFORE, plaintiff prays judgment as follows:

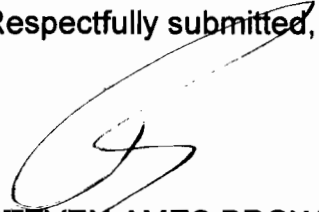
3 1. For declaratory judgment that Stroud has no right, title, nor interest in any of the
4 Disputed Masters and that they are bound by the final judgments and permanent
5 injunctions entered in the Prior Actions;

6 2. For costs of suit.

7 3. For such other relief as the Court may deem just.

8 Dated: May 7, 2008

9 Respectfully submitted,

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12 STEVEN AMES BROWN,
13 Plaintiff in *pro se*
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JS 44 (Rev. 12/07) (and rev 1-16-08)

CIVIL COVER SHEET

VRW

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS

STEVEN AMES BROWN

E-filing

DEFENDANTS

ANDREW B. STROUD, an individual and STROUD PRODUCTIONS AND ENTERPRISES, INC.

(b) County of Residence of First Listed Plaintiff San Francisco
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant New York
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

STEVEN AMES BROWN, 69 Grand View Avenue, San Francisco, California 94114-2741 415/647-7700; Therese Y. Cannata of Cannata, Ching & O'Toole, LLP 100 Pine Street, San Francisco, CA 94111 415/409-8900

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 1332, 2201 & 2202 diversity & declaratory relief

Brief description of cause:

Declaration of rights concerning pre-1972 sound recordings

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE

"NOTICE OF RELATED CASE". Simone v. Sehorn, et al. 94 CV-1288-TEH (same property & transactions)

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE

DATE
5/7/08

SIGNATURE OF ATTORNEY OF RECORD